Dominion Generation
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Mr. Mark Friedrichs
PI-40
Office of Policy and International Affairs
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington DC 20585

RE: Comments on DOE's Interim Final Guidelines and Proposed Technical Chapters for Voluntary Reporting of Greenhouse Gases (70FR15169)

Dear Mr. Friedrichs:

Dominion submits the following comments in response to the above-referenced interim guidelines and proposal and request for comment by the U.S. Department of Energy (DOE) in the development of revisions to the existing voluntary guidelines under Section 1605(b) of the Energy Policy Act.

We would like to acknowledge up front that DOE has made some improvements in the General Guidelines relative to several issues Dominion noted in comments submitted in February 2003. These improvements include DOE's modification of the de minimus provisions to permit exclusion from greenhouse gas (GHG) inventories of up to 3 percent of total emissions in lieu of the 10,000 ton level initially proposed, allowing the registration of avoided emissions, providing flexibility in the establishment of a baseline period by allowing the use of a multiple years in lieu of a single year, and eliminating the requirement for CEO's to certify a 1605(b) report.

While these improvements are welcome, there are considerable issues remaining that we believe may serve as deterrents to participation and that DOE needs to address in order to broaden the incentives and ability of entities to register reductions under the new/revised program.

Focus of Revised Guidelines Weighted Toward President's GHG Intensity Reduction Goal

The revised guidelines appear to be heavily focused toward serving primarily as the inventory/registry for supporting the President's goal to reduce GHG intensity. Several provisions in the guidelines pointedly bias entities toward entity-wide, intensity-based inventory and reporting methodologies. These include, the requirement for large emitters to submit entity-wide emissions information if they wish to register reductions, continued failure to recognize reductions achieved prior to 2003 under the current 1605(b) guidelines, the continued preclusion of actions such as unit or plant closures/retirements that cause a decline in output from qualifying as registered reductions under an absolute

reduction method, and failure to allow registration of project-based reductions. While we applaud the DOE for recognizing the importance of the President's intensity-based goal and the need to incorporate methods to document reductions commensurate with an emissions intensity approach, the intent of the 1605(b) program is to serve many purposes. It should not be designed solely to meet any one-specific program, but rather should be as flexible and broad as possible to serve as a depository for reductions that could be recognized under existing and future GHG reduction programs or policies. A more broad-based design will incentivize reductions and encourage participation in the voluntary program.

Recognition for Past Action

The interim final guidelines do not adequately encompass all of the objectives of the President's policy outlined in February 2002. The President's directive to the DOE called for program enhancements that would provide recognition for past and future voluntary actions to reduce GHG emissions and ensure that registered reductions are not penalized under future climate policy. These elements are important policy incentives that would help promote participation in voluntary reduction programs while providing companies a hedge against current and future climate regulatory policies.

New language that has been added in Section 300.12(b), indicating that DOE will notify an entity that reductions will be "credited to the entity as registered reductions" which can be held for use in the event a future program that recognizes such reductions is enacted into law. While this is an improvement over the 2003 proposed guidelines, the final interim guidelines do not explicitly provide baseline protection and assurances that companies that voluntarily take actions to reduce GHG emissions will be credited for early action and not be penalized under a future climate policy.

In our previous comments, we urged DOE to reconsider its proposed policy not to permit the registering of reductions reported to the 1605(b) program under the previous (current) guidelines. It is unfortunate that DOE has retained this policy in the interim final guidelines. In our view, as long as reductions reported under the previous guidelines are recalculated to conform to the requirements of the revised guidelines, they should be granted the same recognition and equity as reductions reported and registered under the revised program. It remains unclear what will happen to prior actions and pre-2003 reductions reported under the current program. DOE offers no indication or clarification in the revised guidelines. This failure to adequately recognize past voluntary actions serves as an additional deterrent toward participation in voluntary programs since it sets a precedent for offering participants in a voluntary emission reduction program no assurances that their efforts will have any value or benefit in any future program, whether voluntary or regulatory. We again urge DOE to reconsider this policy.

Entity-Wide Reporting

DOE retains a sharp distinction between reporting and registering reductions with its two-tiered approach in the guidelines, particularly for larger emitters such as the energy

sector. The guidelines require large emitters wishing to register reductions to submit entity-wide emission inventories and **are recognized only for net reductions in their entity-wide emissions** (whether absolute or intensity-based).

We continue to question the practicality of this approach for large companies, such as a multi-sector energy company for example, where overall emissions may increase due to growth in certain segments of its business even though the company has taken measures through specific projects to reduce emissions in other segments of its business. Although the revised guidelines do afford considerable flexibility in defining a "reporting entity", the requirement to achieve net emission reductions across an entity can still be onerous, difficult and even prohibitive for companies to report and register actual, quantifiable reductions it has achieved for specific measures and projects within the scope of the defined entity (no matter the size of the entity or the magnitude of its overall emissions) that reduce emissions from what they otherwise would have been if the measures had not been implemented. This requirement will discourage larger companies from participating in the program. It will also greatly discourage companies from reporting/registering at the highest aggregation level possible, which DOE advocates in the guidelines. Furthermore, it may even discourage companies from investing the resources to undertake certain projects to reduce GHG emissions if they have no assurances that such reductions will be recognized in **even a voluntary** reduction and reporting program.

A reduction in GHG emissions registered in a voluntary program should not be subject to any type of "litmus test" in terms of the significance of the reported reduction relative to total GHG emissions. **A reduction is a reduction regardless of whether such reduction is achieved by a large or small overall emitter, and regardless of whether the reduction represents a small or larger fraction of an entity's total emissions.** Again, it appears this requirement largely stems from DOE's insistence to have the revised 1605(b) program function exclusively as a means to track and demonstrate progress on the President's GHG intensity reduction goal rather than as a general database or repository comprised of information on actions undertaken voluntarily to reduce GHG emissions for which it was established under the Energy Policy Act.

Furthermore, the requirement to report entity-wide emissions applies only to large emitters. This is discriminatory against larger emitters, such as energy companies. Entity-wide reporting should remain a flexible option for all reporting entities, large or small. We do support the addition of entity-wide intensity-based reporting in the guideline as a reporting and registering option.

Although, as previously acknowledged, DOE has made modifications to the de minimus levels from its March 2003 proposal, the requirements for large emitters continue to be potentially costly and burdensome, especially for large multi-sector energy companies. Entities are still required to quantify (through a detailed inventory) that de minimus emissions are indeed de minimus. Furthermore, they are required to re-estimate the quantity of excluded emissions after any "significant increase" (which is not defined in the guidelines) therein or every 5 years, whichever occurs sooner. This places a huge administrative, resource-intensive and costly burden on energy companies. Such an

enormous burden could discourage participation in the voluntary reduction program, which again is counter to the President's policy directive to enhance and encourage future participation.

To the extent a quantitative de minimus level is maintained by DOE, we see no reason for requiring an entity to undertake an exhaustive re-estimation every 5 years in the absence of any "significant increase". We recommend DOE eliminate the "every 5 year" re-estimation requirement. Furthermore, while we welcome DOE's shift from the 10,000-ton/year de minimus level to a 3% threshold, we reiterate our preference that the de minimus reporting threshold be established at 5% of total emissions. In addition, we also request DOE consider a possible qualitative alternative that would allow an entity to omit emissions from activities or processes that are not directly related to the core business of the reporting entity. Should DOE maintain the 5-year inventory review, it must at a minimum define what it considers is a "significant increase" in emissions.

Project-Based Reductions

Under the revised guidelines' new two-tiered approach, reductions from project-based actions can be reported, but are precluded from registration. Project-based reporting should receive equal treatment with entity-wide reporting, as afforded under the current guidelines. Project-based actions are more consistent with company approaches to reduce GHG's than entity-wide reporting. Based on statistics over the 1994-2003 reporting years under the current 1605(b) program, more than one-half of all entities reporting under the program report project-level reductions, including many that report on an entity-wide basis as well[1]. Furthermore, project-level reductions are the basis for current GHG trading and offset markets. We are very concerned that DOE's reluctance to allow the official registering of project-based reductions could severely jeopardize the potential use of certain reductions in developing/emerging and future GHG reduction programs that may look to the revised 1605(b) provisions for guidance in developing offset provisions of their programs. The guidelines should continue to allow "stand-alone" project-based reporting and registering of reductions, avoidances and sequestration.

Issues Specifically Related to Carbon Sequestration Projects

Certification from the 1605(b) registry is, for now, the only way in which an emitter can achieve recognition for having sponsored a sequestration project to produce offsets. If an emitter is unable to register the sequestration amounts effectively as a reduction against its emissions, that recognition value is absent. If they can be registered, but the transaction costs are too high, the incentive to include the offsets will be diminished and may even disappear.

The revised program's requirement for entity-wide reporting and net emission reductions, coupled with the guidelines for ownership of emission reductions, will create procedural

[1] "Voluntary Reporting of Greenhouse Gases 2003 Summary"; EIA Office of Integrated Analysis, U.S. DOE (April 2005).

and cost burdens on forestry carbon sequestration projects as well as agricultural projects that will render them unfeasible and discourage their expansion as part of the 1605(b) voluntary program. Section 300.8(k) states that the entity that DOE will assume to be responsible for emission reductions from sequestered carbon is the entity with financial control of the land where the sequestration action occurred. That means that any landowner that carries out a project designed to sequester carbon must undergo an entity reporting process. Although most landowners will be small emitters, they nevertheless must undergo a fairly complete emissions inventory to demonstrate that they are, indeed, emitting less than de minimus levels, and must repeat that inventory every 5 years to retain their small emitter status. If an emitting entity, such as an energy company, for example, wishes to report the results of a sequestration project it has funded as an offset, the reporting entity must include in its report all of the information on the landowner including an entity statement, inventory, assessment of emission reductions and appropriate certifications that would otherwise be required of the landowner if such party were directly reporting. This would also apply to an aggregator reporting reductions collectively for several reporting entities/investors in a sequestration project. The total effect of these requirements impose burdens on reporters, aggregators and third parties that would significantly increase transaction costs on carbon sequestration projects with little if any benefit to the overall integrity of the 1605(b) voluntary reporting system.

We encourage DOE to establish provisions that would allow the recognition of either an aggregator or a reporting entity (such as an energy company or power generator) that have equity interest in such projects as the entity responsible for the carbon sequestration reduction amounts, so long as they provide certification of a legal agreement transferring all rights for reporting or registering the carbon stock changes achieved within the project boundaries[2] from the landowner and that the landowner does not intend to report directly to the DOE program for that particular project. Incorporating such a change eliminates the burden and expense on the part of the landowners (who may not be willing to incur such expense and thus unwilling to report) and the expense on the part of an aggregator or reporting entity of creating and maintaining individual entity reports for all agricultural or forestry operations associated with a particular sequestration project or groups of projects. Facilitating the ability of aggregators and reporting entities to sponsor and manage the necessary reporting requirements associated with carbon sequestration projects with minimal transaction costs is the best way to encourage these types of projects and foster participation in the voluntary emission reduction program.

Treatment of Avoided Emissions

A major improvement in the interim final Guidelines relative to the original proposal is recognition of the concept of avoided emissions, which will allow power generators to report and register emission reductions resulting from new additions or increased capacity of zero-emitting sources (including nuclear) as well as lower-emitting generation from fossil fuels. **The guidelines assign reporting and registering rights to the generator, based on ownership of the asset. Dominion, in general, supports this**

[2] In the case of a single reporting entity, such as a power generating company, the entity's pro-rata share of the total project reductions based on entity's equity share (or other ownership criteria).

approach, unless there is a contractual agreement between the generator and another entity (such as an end user) that would transfer the reporting rights to another entity.

The proposed Technical Guidelines specify a national average benchmark value of 0.59 Mt of CO2 equivalents per Mwh for purposes of calculating avoided emissions. DOE derived this from the average intensity of U.S. electricity generation in 2002. This approach fails to recognize that CO2 emission rates can vary significantly in different regions of the country due to differences in the mix of generation from region to region. We believe DOE should modify the Technical Guidelines to allow for the use of regional benchmarks for calculating avoided emissions to provide a more accurate representation of the magnitude of avoided emissions. Likewise, we support the use of regional emission factors for estimating emission reductions from transmission and distribution improvements. Where applicable, entities should be allowed the option of providing actual data.

The revised guidelines do not consider several programs/actions to be eligible for actions to avoid greenhouse gas emissions that are widely embraced and were previously recognized under the 1605(b) program. We offer the following comments on three such programs that we believe should continue to qualify for registered reductions under Section 300.8 of the General Guidelines:

1. **Entity-Sponsored DSM Programs**

   We encourage DOE to recognize emission reductions achieved from utility-sponsored demand side management (DSM) programs or other entity-sponsored (generators, industries, etc.) programs implemented through a load serving entity (LSE) as a category of avoided emissions or offset emission reductions. Increased end-use energy efficiency is an efficient and cost-effective alternative for reducing GHG emissions. DSM programs reduce both peak demand and electricity consumption. This reduction in electricity consumption should be treated in the same manner as avoided emissions from emission-free generation. We further recommend that utilities and/or entities sponsoring these projects be permitted to report avoided emissions from DSM energy efficiency programs, subject to guidelines that could be developed to ensure that there is no duplication of reporting between utilities providing DSM services and the customers who benefit from such services. The potential for minimizing the extent of reporting can be addressed if a threshold level is established for the size of DSM customers that can be directly included in a 1605(b) report (perhaps based on kilowatt hours per year), and more specific procedures or options were developed and implemented to facilitate the interface of reporting requirements between utilities and larger customers above the threshold. Utilities are already required to provide data to EIA annually on DSM activities through Form 861 reports and these reports could be used to provide a means of evaluating utility 1605(b) reports on DSM activities. These activities and associated reductions can also be tracked through LSE's, which could serve as an aggregator for reporting the reductions under the 1605(b) program.

2. Plant Closures

We raise issue with the provisions in Section 300.8(j) dealing with plant closings. These provisions indicate that if reductions from plant closings, whether significant or miniscule, are the "direct result" of closings "that cause a decline in output", the report must identify the reductions as such and the reductions will not qualify for registration. Section 300.8(j)(2) states that "DOE presumes that reductions calculated using the emissions intensity method do not result from a decline in output", which implies that in the context of reporting under the emissions intensity method, reductions from plant closings are not disqualified. Apparently, they are disqualified only under the absolute emissions approach, for reasons that are not explained. In addition, the provisions do not indicate whether and under what circumstances that presumption might be challenged.

The proposed guidelines should not prejudge certain emission reduction strategies that companies and reporters may choose to exercise to reduce GHG emissions or emission intensity, and should not preclude the incorporation and consideration of these activities in the program. Closure of facilities (as well as changes in products, acquisitions and divestitures) are all part of routine business decisions that occur in a market-based economy. There is no basis for the guidelines to assume that such reductions are not real reductions or to treat such reductions any differently from other reductions. If these activities result in emission or emission intensity decreases, they should be fully recognized as such. DOE should abandon this discriminatory treatment of reductions achieved or realized through plant or unit closings and allow such reductions to be registered in the 1605(b) program regardless of which method an emitter chooses for reporting.

3. Coal Ash Reuse

In the proposed Technical Guidelines, DOE raises ownership and measurement concerns with respect to coal combustion products (CCP's), including the reuse of coal ash. The Utility Solid Waste Activities Group (USWAG) in conjunction with the American Coal Ash Association have developed a general framework for reporting greenhouse gas emission reductions through the use of CCP's and coal ash reuse that we believe addresses DOE's concerns. We endorse USWAG's comments that the producer of the coal ash "product" should be considered to be the owner of greenhouse gas reductions, unless contractual agreements with end-users transfer such ownership. This is consistent with DOE's general approach for determining entity responsibility for emission reductions.

DOE's Proposed Rating System Is Prohibitive for Non-Combustion Including Fugitives and Vented Sources

The emissions rating system proposed in Section 1.A.4 of the Draft Technical Guidelines is discriminatory against processes for which the current state-of-the-science for emissions is based on indirect emission estimates such as emission factors or test

methods. This rating system may prohibit the registration of emission reductions from certain industries and fugitive sources. For example, fugitive emissions are the most significant methane source from natural gas systems. Since direct site specific measurements and mass balance are not feasible for fugitive emissions, the current state-of-the-science for emissions reporting of fugitive methane emissions is based on default emission factors. In DOE's proposed rating scheme and inventory weighting procedures, this accepted emission determination methodology, even though consistent with best practices currently available, would fail to meet the criteria for registering emission reductions under the revised 1605(b) program.

While its proposed rating scheme may be appropriate for combustion sources for which several direct or indirect measurement methodologies are available, feasible and widely applicable, DOE needs to recognize the inequities applying such a scheme across all source types this proposed rating scheme inherently creates. We fully support DOE's goal to improve the accuracy, reliability and verifiability of reported emissions and emission reductions. However, it should not use a rating system that is punitive to sources for which direct estimation methods have not evolved and for which currently acceptable default emission factors are considered best practices to drive such improvements. Rather, DOE should allow established best practices driven by peer reviewed estimation methods to establish the criteria for reporting accuracy.

We recommend DOE abandon the proposed rating scheme until the state-of-the-science for non-combustion sources warrants the use of such a system.

Other Process and Procedural Issues

1. Changes in Emission Reduction Calculation Methods

DOE needs to clarify the provisions governing changes in emission reduction methods chosen by a reporting entity in Sections 300.8(f) and 300.9(b)(3) to specifically indicate that a reporting entity that decides to change its reduction methodology (from absolute emissions to intensity-based, for example) has the option of establishing a new base period or base value without having to recalculate, redo and resubmit all of its previous year submissions. Based on discussions with DOE, we do not believe it is DOE's intent to require such recalculations and resubmissions of past reports, but DOE should provide this clarity in the final guidelines.

2. Periodic Review of Guidelines

DOE's stated intent to periodically review the General and Technical Guidelines, anticipated to occur every 3 years, and (per Section 300.1(f) needs to include a commitment that any such review will be subject to an opportunity for public participation, consistent with section 1605(b) of the 1992 Energy Policy Act.

3. Effective Date for Reports Under New Guidelines

Regarding the effective date for reports, we believe DOE and EIA are not in a position to finalize the reporting forms in time for year 2005 reporting (submission to EIA in 2006). EIA has yet to release a draft of its proposed Simplified Emissions Inventory Tool (SEIT). Reporting entities will need a reasonable amount of time to digest the final guidelines, technical chapters (once in final form) and the reporting forms, understand the many elements of the program, and prepare the necessary inventories and documentation. Accordingly, we recommend DOE and EIA set an effective date for no earlier than the 2006 reports (to be submitted to EIA in 2007).

In closing, while some improvements have been made relative to the initial proposal, the final interim guidelines and proposed Technical guidelines will impose resource-intensive requirements that are vastly different and significantly more complicated than what is required for reporting reductions under the current 1605(b) program. Many of the elements and procedures of the revised guidelines are confusing and need clarity. These will add significant burden and cost to the reporting process, particularly at the onset of the revised program as entities attempt to understand these new requirements and implement the procedures necessary to report and register reductions. Accordingly, Dominion requests that DOE consider conducting additional workshops (preferably by sector) after the General Guidelines and Technical Guidelines are finalized to allow potential reporting entities an opportunity to obtain additional information, clarification and guidance that may be needed as companies/entities evaluate the revised program. This concept was addressed at the DOE Workshop in April, and we believe it could be beneficial in enhancing understanding of the new program requirements and helpful to entities in evaluating decisions whether to continue participation in the voluntary reporting program.

Thank you for this opportunity to comment. If you have any questions, please call me at (804)273-3022.

Sincerely,

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Manager, Environmental Policy

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